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Attorneys for Plaintiff Philip Morris USA Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PHILIP MORRIS USA INC.,

Plaintiff,

v.

No. 07 Civ. 8359 (LAK)(GWG)

A & V MINIMARKET, INC., a New York
corporation doing business as A & V MINI
MARKET, *et al.*,

Defendants.

REQUEST FOR CERTIFICATE OF DEFAULT

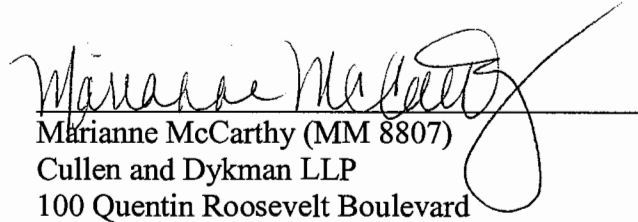
TO THE CLERK OF THE COURT:

Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and Local Civil Rule 55.1, Plaintiff Philip Morris USA Inc. hereby requests that you enter default in this action against Defendant 394 Grocery Corp. Default should be entered because 394 Grocery Corp. has not answered or responded to the Complaint within the time prescribed by Rule 12 of the Federal Rules of Civil Procedure or otherwise appeared in this action. The facts justifying the entry of

default are set forth in the attached Affidavit of Marianne McCarthy in Support of Request for Certificate of Default, and a proposed Clerk's Certificate of Default is also attached hereto.

Dated: June 2, 2008

CULLEN AND DYKMAN LLP

A handwritten signature in black ink, appearing to read "Marianne McCarthy", is written over a horizontal line. The signature is stylized with a large, looping flourish at the end.

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No. 07 Civ. 8359 (LAK)(GWG)

A & V MINIMARKET, INC., a New York
corporation doing business as A & V MINI
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Defendants.

AFFIDAVIT OF MARIANNE MCCARTHY
IN SUPPORT OF REQUEST FOR CERTIFICATE OF DEFAULT

STATE OF NEW YORK)
)
COUNTY OF NASSAU) ss.:

MARIANNE MCCARTHY, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am Of Counsel to the law firm of
Cullen and Dykman LLP, co-counsel to Heller Ehrman LLP, attorneys for Plaintiff Philip Morris

USA Inc. I am fully familiar with the facts and circumstances surrounding this action. I make this declaration in support of Philip Morris USA Inc.'s request for a Certificate of Default against Defendant 394 Grocery Corp. pursuant to Fed. R. Civ. P. 55(a) and Local Civil Rule 55.1.

2. Upon information and belief, 394 Grocery Corp. is not an infant, in the military, or an incompetent person.

3. Philip Morris USA Inc. commenced this action on September 26, 2007 by the filing of the Summons and Complaint. A true and correct copy of the Summons and Complaint (without exhibits) is annexed hereto as Exhibit A.

4. In accordance with Fed. R. Civ. P. 4(h)(1), Philip Morris USA Inc. effected service of process on 394 Grocery Corp, on November 1, 2007, by serving two (2) copies of the Summons and Complaint on Donna Christie, Authorized Agent in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York. These facts are set forth in the Affidavit of Service of Jessica Miller sworn to November 5, 2007, a true and correct copy of which is annexed hereto as Exhibit B.

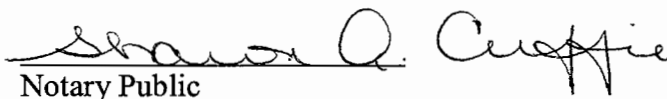
5. Under Fed. R. Civ. P. 12(a)(1)(A), 394 Grocery Corp. was required to answer or respond to the Complaint no later than November 23, 2007.

6. 394 Grocery Corp. has not answered the complaint or otherwise defended the action, and the time for 394 Grocery Corp. to do so has expired.

WHEREFORE, on behalf of Philip Morris USA Inc., I respectfully request a Certificate of Default against 394 Grocery Corp.


MARIANNE MCCARTHY

Sworn to before me this
2nd day of June, 2008.


Notary Public

Sharon A. Cuffie
Notary Public, State of New York
No. 01CU6020584
Qualified in Suffolk County
Commission Expires March 01, 20 11